

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:12-po-157

-vs-

Magistrate Judge Michael R. Merz

:

ALEX V. NGUYEN,

Defendant.

ORDER SETTING PRETRIAL CONFERENCE

On November 27, 2012, the Court granted Defendant's Motion for a Continuance of the Pretrial Conference set in this case for November 28, 2012 (Doc. No. 3). The basis for the continuance was a conflicting setting in the Miamisburg Municipal Court for another case. The Court noted that Judge Rettich set counsel's other case on September 20, 2012, more than two months before counsel moved for a continuance of this case on the basis of that setting and more than a month after this case was set for November 28, 2012.

Having vacated the prior pretrial date, the Court ordered that "[d]efense counsel shall contact Judicial Assistant Kelly Kopf **immediately** upon receipt of this Order to set a date for pretrial which will be conducted by the Court personally." (Emphasis added). That Order was entered at 11:19 A.M. on November 28, 2012. Because of the electronic filing system, that Order was received by Defendant's counsel at once. It is now 4:20 P.M. on November 30, 2012, and defense counsel has not yet contacted Ms. Kopf. The Court concludes Defendant has lost any privilege of being consulted prior to re-setting the pretrial conference.

The pretrial conference in this case is hereby re-set for 9:00 A.M. on Wednesday,

December 5, 2012, in Room 501. Counsel and the Defendant shall both be present.

IT IS SO ORDERED.

November 30, 2012.

s/ *Michael R. Merz*
United States Magistrate Judge